

*City of Las Vegas*

**AGENDA MEMO**

**PLANNING COMMISSION MEETING DATE: JANUARY 10, 2008**

**DEPARTMENT: PLANNING AND DEVELOPMENT**

**ITEM DESCRIPTION: VAR-25642 - APPLICANT/OWNER: CHARLESTON AND JONES, LLC**

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**\*\* CONDITIONS \*\***

**STAFF RECOMMENDATION: DENIAL.** If Approved, subject to:

**Planning and Development**

1. Any decorative materials or ironwork attached to the top of a perimeter wall shall not encroach into public right-of-way or abutting properties.
2. This approval shall be void one year from the date of final approval, unless upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

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**\*\* STAFF REPORT \*\***

**PROJECT DESCRIPTION**

This is a request for a Variance to allow an existing 10.67-foot wall, where ten feet is allowed. This project is located at 5905 West Charleston Boulevard and is known as Desert Shadows Condominiums. Originally, a perimeter wall was permitted, but the applicant installed a rod-iron security feature. This security feature was built without permits and is over the allowed height of ten feet. This Variance request is a 6.7% deviation from Title 19 requirements. Due to the self-imposed hardship created by adding this security feature, staff recommends denial of this request.

**BACKGROUND INFORMATION**

<b><i>Related Relevant City Actions by P&amp;D, Fire, Bldg., etc.</i></b>	
09/04/02	The City Council approved a General Plan Amendment (GPA-0014-02) from SC (Service Commercial) to M (Medium Density Residential). The City Council approved a Rezoning (Z-0037-02) from R-E (Residence Estates) and C-2 (General Commercial) to R-3 (Medium Density Residential). The City Council approved a Variance (V-0041-02) to allow apartment buildings with three stories and 38 feet tall where two stories and 35 feet are the maximum height allowed. The City Council approved a Site Development Plan Review [Z-0037-02(1)] for a 192-unit three-story, apartment complex. The Planning Commission and staff recommended approval of these requests.
10/06/04	The City Council approved an Extension of Time (EOT-5144) of Rezoning Z-0037-02; an Extension of Time (EOT-5146) of Site Development Plan Review Z-0037-02(1); and an Extension of Time (EOT-5147) of Variance (V-0041-02). Staff recommended approval of these requests.
12/06/06	The City Council approved a Site Development Plan Review (SDR-16919) and a Waiver of the Perimeter Landscape Buffering Requirement for the conversion of 192-unit apartment complex to a condominium development. The Planning Commission and staff recommended approval of this request.
01/11/07	The Planning Commission approved a Tentative Map (TMP-18269) for a 192-unit condominium development. Staff recommended approval of this request.
05/11/07	A Final Map (FMP-19063) was recorded for a 192-unit condominium development.
<b><i>Related Building Permits/Business Licenses</i></b>	
05/31/06	A building permit (62126) was issued for a perimeter Wall Fence for the east, west, and south property lines.
06/01/07	A building permit (90926) was issued for a Wall Fence on the north property line with a total height of 7.33 feet.

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<b><i>Pre-Application Meeting</i></b>	
11/09/07	A Pre-Application meeting was held to discuss the requirements of submitting a Variance for wall height. The applicant was told that any ironwork attached to the top of a perimeter wall shall not encroach into public right-of-way or abutting properties.
<b><i>Neighborhood Meeting</i></b>	
A neighborhood meeting is not required for this application, nor was one held.	

<b><i>Details of Application Request</i></b>	
<b><i>Site Area</i></b>	
Gross Acres	7.39

<b>Surrounding Property</b>	<b>Existing Land Use</b>	<b>Planned Land Use</b>	<b>Existing Zoning</b>
Subject Property	Condominiums	M (Medium Density)	R-3 (Medium Density Residential)
North	Commercial	SC (Service Commercial)	C-1 (Limited Commercial)
South	Undeveloped and Single Family Residences	SC (Service Commercial) and DR (Desert Rural Density Residential)	Undeveloped, R-E (Residence Estates)
East	Commercial	SC (Service Commercial)	C-1 (Limited Commercial)
West	Commercial	SC (Service Commercial)	C-1 (Limited Commercial)

<b><i>Special Districts/Zones</i></b>	<b><i>Yes</i></b>	<b><i>No</i></b>	<b><i>Compliance</i></b>
<b>Special Area Plan</b>		X	N/A
<b><i>Special Districts/Zones</i></b>	<b><i>Yes</i></b>	<b><i>No</i></b>	<b><i>Compliance</i></b>
<b>Special Purpose and Overlay Districts</b>			
A-O Airport Overlay District (200 Feet)	X		Yes
<b>Trails</b>		X	No
<b>Rural Preservation Overlay District</b>		X	No
<b>Development Impact Notification Assessment</b>		X	No
<b>Project of Regional Significance</b>		X	No

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## DEVELOPMENT STANDARDS

*Pursuant to Title 19.08, the following development standards apply:*

<i>Standard</i>	<i>Required/Allowed</i>	<i>Provided</i>	<i>Compliance</i>
Min. Lot Size	6,500 SF	322,812 SF	Yes
Min. Lot Width	NA	538 Feet	Yes
Min. Setbacks <ul style="list-style-type: none"> <li>• Front</li> <li>• Side</li> <li>• Corner</li> <li>• Rear</li> </ul>	20 Feet 5 Feet 5 Feet 20 Feet	20 Feet 5 Feet 5 Feet 20 Feet	Yes
Min. Distance Between Buildings	10 Feet	25 Feet	Yes
Max. Building Height	3 Stories/38 Feet	3 Stories/38 Feet	Yes

## ANALYSIS

This request for a Variance is to permit an existing wall height of 10.67-feet, where ten feet is allowed. Originally, a block wall was permitted with a maximum wall height of 9.67-feet. This originally approved wall was then modified with a rod-iron security feature, increasing the maximum height of this wall to 10.67 feet. This modification was done without permits and was discovered when this property was being inspected. The installation of a rod-iron security feature has created a self imposed hardship; staff recommends denial of this request.

## FINDINGS

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

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No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by adding a security feature on top of a permitted wall. Alternatively, not adding the security features would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site's physical characteristics, it is concluded that the applicant's hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

**NEIGHBORHOOD ASSOCIATIONS NOTIFIED** 0

**ASSEMBLY DISTRICT** 3

**SENATE DISTRICT** 8

**NOTICES MAILED** 162

**APPROVALS** 0

**PROTESTS** 0